

sealing gasket container assembly.

14. (new) A method for making a cosmetic product container, according to Claim 13, comprising a step of bi-injecting a first material for making an integral assembly constituted by a container body, a covering element therefor and a strip hinge integrally coupling said container body and covering element, and a second material, different from said first material, for forming a gasket integral with said covering element for tightly coupling said container body and covering element.

15. (new) A method according to Claim 14, comprising the steps of forming said container body with an open end thereof opposite to said covering element and a gasket integral with said covering element and further forming by blow-molding through said open end of said container body, a cosmetic product vial or tube.

---

REMARKS

In paragraph 1 of the Office Action, claim 12 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention.

Reconsideration is requested.

Claim 12 has been canceled and the newly presented claims provide a proper antecedent basis for the term "open body". For this reason, it is requested that this ground of rejection be withdrawn.

In paragraph 3 of the Office Action, claims 8-11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Mueller in view of Mason, Jr. and Petit.

Reconsideration is requested.

Claims 8 to 12 have been canceled, and new claims 13 to 15 have been submitted to clearly distinguish Applicant's invention over the prior art patents both individually and in

combination.

New claim 13 points out that the Applicant's cosmetic product container comprises a container body, a covering element, a hinge and a gasket, the container body, covering element and hinge being made as a single piece of the first material, and the gasket being made, also as an integral element, starting from a second material different from the first material. In other words, Applicant's cosmetic product container, in its finished form, is an integral container, i.e. a single piece container comprising the container body, the covering element, the strip hinge and the gasket.

New claim 13 is not made obvious by the cited prior art patents. Mueller does not teach or suggest a container comprising, as a single piece, a container body, a container cover, a hinge and a gasket, wherein the container body, the hinge and cover are made of a first material and the gasket is made of a second material.

Actually, as pointed out by the Examiner, Mueller teaches a container having a container body and a covering element that are formed as a single piece. Mueller does not teach a bi-injected gasket that is formed as a unit with the container body.

Mason, on the other hand, teaches that it is known to provide a depending sealing rib on the covering element or a separate gasket on the covering element for sealing the container neck. However, Mason does not disclose a container which, in its finished form comprises, as a single piece, a container body, a container cover, a coupling hinge and a gasket.

Finally, Petit teaches that it is known to provide a gasket on a covering element by bi-injecting two materials to create the cover and the gasket thereon. This patent does teach that a cover and gasket assembly may be made by a bi-injecting method. However, this patent does not teach an integral, i.e. a single piece, container. In fact, on lines 60 to 65 of column 3 of this patent, it is expressly stated that "the case 1 with sealed closure according to the invention comprises a bottom 2

and a cover 3, generally articulated on the bottom 2. The bottom 2 comprises a hinge axle 4 on which is pivotally mounted the cover 3, the latter having along its rear edge 2 projecting tongues 31 forming a gripper clicking over said articulation axle 4".

This clearly means that the cover and container body are two pieces joined by a hinge axle 4; thus, it appears that the container is not a single-piece container since the cover 3 is pivotally mounted on the container body through a hinge axle 4. In other words, the container or bottom body 2, the cover 3 and the hinge axle 4 form three separate elements and are not integral with one another.

Thus, since none of the references cited by the Examiner teaches the integral container construction taught by Applicant in new claim 13, it is respectfully submitted that new claim 13 is not made obvious by the cited references.

In this connection, Applicant further desires to draw the attention of the Examiner on the fact that the patent to Petit may not be combined with the other documents to arrive at the container construction taught by the Applicant in new claim 13. Actually, even if Petit teaches that a gasket and a cover may be formed by a bi-injection method, he expressly requires that the cover be mounted on the bottom through an axle, which could not be achieved by forming it as a single piece with the cover and bottom of the container as, for example, taught by Mueller.

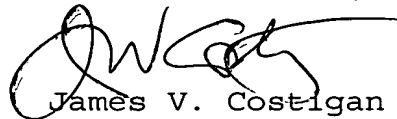
New claim 14 discloses a method for making a cosmetic product container, comprising a bi-injecting step in which a first material is injected for making an integral assembly constituted by a container body, a covering element therefor, a strip hinge integrally coupling said container body and covering element and a second material different from said first material for forming a gasket also integral with said covering element for tightly coupling said container body and covering element.

Actually, Mueller '066 does not teach the claimed method of manufacturing, since this document does not disclose or address to use a bi-injecting step.

Claim 15 teaches a further aspect of Applicant's method, which is neither disclosed nor suggested by the Mueller patent, since, even if this document discloses that it is possible to manufacture a container from a preform having an open end opposite the covering element, this method does not teach a container that includes an integral container body, container cover, strip hinge and gasket. Accordingly, it is respectfully submitted that also new claim 15 is patentable over the art and allowance thereof is respectfully requested.

In view of the foregoing discussion, allowance of the application is respectfully solicited.

Respectfully submitted,



James V. Costigan  
Registration No.: 25,669

Hedman & Costigan, P.C.  
1185 Avenue of the Americas  
New York, N.Y. 10036  
(212) 302-8989

I hereby certify that this  
correspondence is being  
deposited with the United States Postal Service as  
first class mail in an envelope addressed to:  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450 on 2/11/03

